IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

LA.App.No. 868 of 2002
&
CROSS OBJECTION

APPELLANT/RESPONDENT:

STATE OF KERALA

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

RESPONDENT/CLAIMANT:

DR. T. SATHIDEVI "CHITHRA",
NELLICODE, KOZHIKODE.

BY ADV. SRI. N.L. KRISHNAMOORTHY
ADV. K. LAKSHMI NARAYANAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 868 OF 2002

&

CROSS OBJECTION

Dated this the 8th day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 71/1998 on the file of the Sub Court, Kozhikode. Acquisition is for the purpose of Pottammal-Manathalathazham road. In view of the judgment in L.A.A. No. 1172/2000, there is no merit in the appeal filed by the State regarding enhancement.

2. In the cross objection there are two grievances, one regarding interest on solatium. In view of the decision of the Supreme Court in ***Sunder vs. Union of India*** **(2001(3) KLT 489)**, cross objector is entitled to interest on solatium. Other grievance is with regard to the measurement. According to the cross objector, though a contention was taken no opportunity was given to the cross objector to establish her case and therefore it is prayed that an opportunity may be given to the cross objector before the reference court to establish her case regarding the actual extent taken from her.

Having regard to the submission as above, we are of the view that it is only in the interest of justice that a further opportunity is given to the cross objector. Therefore, for the only purpose of resolving the dispute as to the actual extent involved in the acquisition of the property from the cross objector, we set aside the judgment and decree in L.A.R. No. 71/1998 and remit the matter to the reference court. Parties will appear before the reference court on 19.11.2007 and thereafter the reference shall be disposed of within a period of another three months.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 868 OF 2002
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CROSS OBJECTION

J U D G M E N T

08.10.2007